



U.S. Department of Justice

Civil Division, Federal Programs Branch

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November 3, 2005

By First Class & Electronic Mail*

Mr. Aden Fine, Esquire
American Civil Liberties Union
Foundation
125 Broad Street
New York, New York, 10004

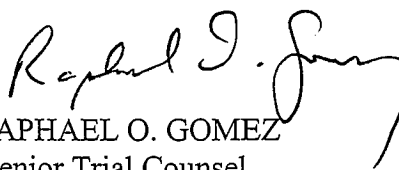
Re: ACLU, et al. v. Gonzales, No. 98-5591 (E.D. Pa.)

Dear Mr. Fine:

We have tested ONFOLIO software and determined that it cannot be used to capture plaintiffs' websites. Quite frankly, it is even less capable than the software that we previously identified. Our expert contacted ONFOLIO directly to discuss the inability of the software to capture even simple websites. The ONFOLIO staff acknowledged that it was not able to make an acceptable copy of www.freespeech.org. They further acknowledged that, at best, their product made a "reasonable" attempt at most embedded php, java script, active content, dynamic content etc. Finally, they suggested that we try a competitor's product – Webzip 7.0 (<http://www.spidersoft.com/>) – to see if it would prove to be more successful. That product also failed to capture an acceptable copy of websites and, moreover, proved to be slow and "buggy."

In our last two conversations, you have stated that you will provide back-up copies of certain of the plaintiffs' websites. We request that you provide these copies at your earliest convenience. Given that neither party has been able to identify software that would enable the copying of plaintiffs' websites, we request that plaintiffs immediately produce back-up copies of all of the remaining plaintiffs' websites pursuant to defendant's outstanding document requests.

Sincerely,


RAPHAEL O. GOMEZ
Senior Trial Counsel
Federal Programs Branch
Civil Division

cc: Christopher A. Hansen, Esq.*
Christopher R. Harris, Esq.*